

HEIRS OF CAPT. DANIEL McNEIL, DECEASED.

MARCH 5, 1840.

Laid on the table.

Mr. RANDOLPH, from the Committee on Revolutionary Claims, made the following

REPORT :

The Committee on Revolutionary Claims, to whom was referred the petition of David Brooks and wife, in behalf of the heirs of Captain Daniel McNeil, report :

That Daniel McNeil, the father of Mrs. Brooks, the petitioner, was a captain of artillery in the continental line of the revolution, and a brave and gallant officer ; that he served till January 3, 1777, when he fell fighting for his country at the battle of Princeton ; and that, according to the construction heretofore given to the resolution of August 24, 1780, his widow was entitled to half pay, to commence from his death, and to continue for seven years, or, in case of her death or intermarriage, then the balance of half pay was to be given to the orphan children of the deceased. Prior to the passage of the resolution of 1780, viz : on the 10th of June, 1779, the State of New Jersey, to which State Captain McNeil belonged, passed an act providing for half pay to the widows and orphan children of such of the officers of that State as were killed in the revolution. By a note appended to this statute, it is stated to have been passed prior to the publication of the resolution of 1780 ; but no other act was passed to carry into effect the resolutions of 1778 and 1780. It appears by a letter from the Secretary of State of New Jersey, that there was paid to the widow McNeil at one time 37l. 10s., and afterwards, viz : October 6, 1781, there was paid to her 343l. 17s. 6d., being the half pay up to February 6, 1780, the time of her intermarriage. If there were no other evidence, the balance of the seven years' half pay would appear to be due the petitioners ; but, by a schedule appended to a report of General Knox, Secretary of War, of the 21st of February, 1793, purporting to be a " list of officers belonging to the continental line of the army, who died in the service or who were killed in action previous to the 28th of May, 1778, and to whose widows or orphans seven years' half pay was granted, taken from the *returns of the respective States* on file in the War Office of the United States," it appears, under the head of New Jersey, that there had been paid on account of the half pay due the widow and children of Captain McNeil the sum of \$1,680, being the aggregate of seven years' half pay of a captain of artillery, at \$40 per month, according to the resolution of

Congress of October 7, 1776. To whom the balance of this half pay was actually paid, the records of the War Office, in consequence of the destruction of its papers by fire, and of the State of New Jersey, owing to the loose manner in which revolutionary papers have been preserved in that and other States, do not show; but that it was paid, and so returned by New Jersey, and the amount allowed to that State in settlement with the General Government, is, in effect, so stated by General Knox, and cannot now be questioned. The presumption is, that it was paid to the proper person; and this presumption is strengthened by the fact, that, when the balance due the widow was paid to her and her husband in 1781, it must then have been known that a balance was due the orphan children, and, also, by the lapse of more than forty years before any claim was made. If, however, it can be shown by proof that the balance of half pay was not paid to the proper person, then the remedy will be to apply to the State of New Jersey. The committee, therefore, report against the prayer of the petition.

REPORT:

The Committee on Revolutionary Claims, to whom was referred the petition of Daniel Brooks and wife, in behalf of the heirs of Captain Daniel McNeil, report:

That Daniel McNeil, the father of Mrs. Brooks, the petitioner, was a captain of artillery in the continental line of the revolution, and a brave and gallant officer; that he served till January 3, 1777, when he fell fighting for his country at the battle of Brandywine; and that, according to the constitution heretofore given to the resolution of August 24, 1780, his widow was entitled to half pay, to commence from his death, and to continue for seven years, or in case of her death or intermarriage, then the balance of half pay was to be given to the orphan children of the deceased. Prior to the passage of the resolution of 1780, viz: on the 10th of June, 1779, the State of New Jersey, to which State Captain McNeil belonged, passed an act providing for half pay to the widows and orphan children of such of the officers of that State as were killed in the revolution. By a note appended to this statute, it is stated to have been passed prior to the publication of the resolution of 1780; but no other act was passed to carry into effect the resolutions of 1778 and 1780. It appears by a letter from the Secretary of State of New Jersey, that there was paid to the widow McNeil at one time \$71.10, and afterwards, viz: October 6, 1781, there was paid to her \$131.17.64, being the half pay up to February 6, 1780, the time of her intermarriage. If there were no other evidence, the balance of the seven years' half pay would appear to be due the petitioner; but by a schedule appended to a report of General Knox, Secretary of War, of the 21st of February, 1793, purporting to be a "list of officers belonging to the continental line of the army, who died in the service or who were killed in action previous to the 28th of May, 1778, and to whose widows or orphan seven years' half pay was granted, taken from the returns of the respective States on file in the War Office of the United States," it appears under the head of New Jersey, that there had been paid on account of the half pay due the widow and children of Captain McNeil the sum of \$1,680, being the aggregate of seven years' half pay of a captain of artillery, at \$40 per month, according to the resolution of